



1. Description of Watershed Activity

The Watershed Protection Act (WsPA) is a law passed in 1992 by the Commonwealth (St. 1992, c. 36). This legislation – also known as the “Cohen Bill” after its initial sponsor, former State Representative David Cohen of Newton – directed the Metropolitan District Commission, Division of Watershed Management (MDC/DWM) to adopt regulations, 350 CMR 11.00, to help protect the sources of water to the reservoirs that provide drinking water to 2.5 million people. The WsPA establishes a “comprehensive scheme to regulate land use and activities within certain critical areas” of the Quabbin Reservoir, Wachusett Reservoir and Ware River watersheds (see Figure 1). The WsPA also established a \$135 million bond for land acquisition to purchase the most vital lands for permanent protection (for more information, see the *Land Acquisition Fact Sheet* (FS99.01)).

2. Pollutants of Concern

Many aspects of the use and development of land affect the quality of nearby streams which then flow into reservoirs and other sources of water supply. Type of development, density, amount of paved surface, and

proximity to river banks are contributing factors to the amount and types of pollutants that can end up in a stream. Some of the strategies used by the WsPA to minimize the effects of human activities on water quality include: preserving a buffer zone along the water resources, limiting impervious surfaces, and restricting the storage and use of hazardous materials.

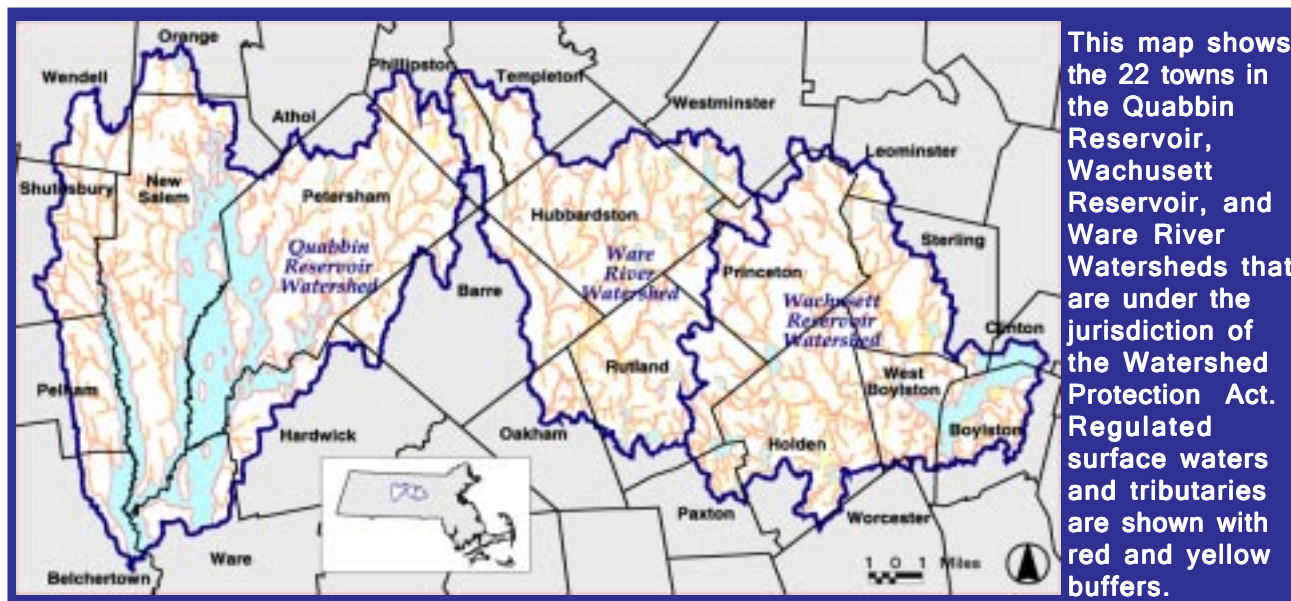
3. How WsPA Regulates Development

Through the Act and its regulations, the MDC seeks to avoid detrimental land uses close to water resources and guide development into more appropriate locations, densities and configurations. Two different areas are protected under the WsPA (see Figure 2; for a complete description, see 350 CMR 11.04).

Primary Protection Zone:

Within 400 feet of the reservoirs and 200 feet of tributaries and surface waters, any alteration is prohibited. “Alteration” includes a variety of activities, such as draining, dumping, dredging, damming, discharging, excavation, filling or grading. Generation, storage, disposal or discharge of pollutants is also prohibited in the Primary Protection Zone.

Figure 1: Watershed Protection Act Regulated Areas

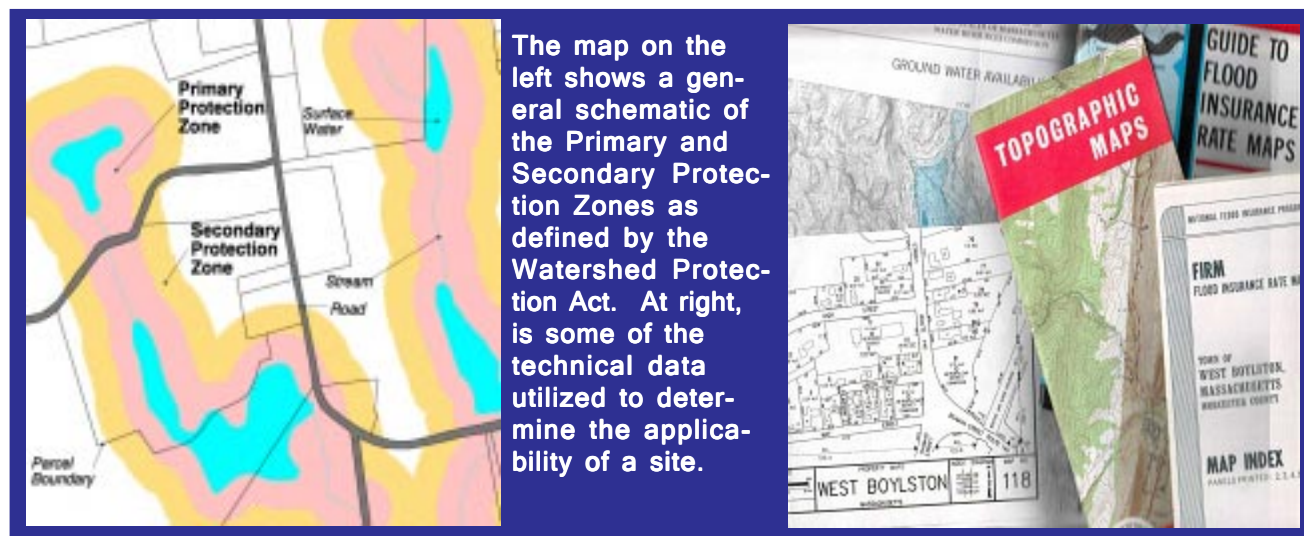


Secondary Protection Zone:

Between 200 and 400 feet of tributaries, surface waters, and on land within flood plains, over some aquifers, and within bordering vegetated wetlands, certain activities are specifically prohibited. These activities include: storage, disposal or use of toxic, hazardous, and certain other materials; alteration of bordering vegetated wetlands; and dense development.

appearance of reservoirs, tributaries, surface waters, aquifers, floodplains, and wetlands on computerized information from the United States Geological Survey and other sources, as mapped by Massachusetts Geographic Information Systems (MassGIS). The Act also required that individual owners in the 26 cities and towns affected by the law be identified and notified. Another section of the Act prescribed the preparation

Figure 2: Watershed Protection Act - Protection Zones and Mapping



Exemptions:

The Act provides a number of exemptions to these restrictions (see 350 CMR 11.05). Some of the most frequently utilized exemptions are:

- ♣ Existing (as of 7/1/92) structures and activities;
- ♣ A single-family dwelling on an existing vacant lot;
- ♣ Minor changes to an existing structure;
- ♣ Division of an existing owner-occupied parcel to create one additional building lot.

4. WsPA Implementation

The initial implementation of the WsPA required the completion of several tasks, which fell under three categories: information collection/distribution, outreach and public participation, and resource development.

Information Collection and Production

The Watershed Protection Act requires that the location of the protected resources be determined by the

of an economic impact statement describing the Act's effect on individual towns and the Commonwealth. These requirements spurred MDC/DWM to collect information from a variety of computerized sources and to render some information in new ways, such as digitizing parcel boundaries from assessors' maps (see Figure 2).

MDC/DWM and MassGIS produced maps for every watershed community showing the protected resources, the Primary and Secondary Protection Zones, and the parcel boundaries by which affected parcels were identified. Each parcel was assigned a unique identifying number based on the town's numbering systems, and lists of affected parcels were produced. MDC notified by letter 7,300 individual owners that their property was affected. The Economic Impact Analysis, produced by the Commonwealth Research Group, concluded that the WsPA would not have a detrimental effect on the region's economy.

Table 1: Watershed Protection Act - Public Communication and Outreach

Activity	Specific Actions
Public Meetings	11 meetings, 1992; 8 meetings, 1993; Open Houses at Quabbin Reservoir and Wachusett Reservoir field offices in 1994; individual meetings with towns upon request, 1994-1996.
Map Distribution	Preliminary maps (before passage of act) in 1990; WsPA maps in 1992; updated maps in 1995.
Guidance for towns and public officials	Memos to towns, 1993; 1994; briefings, 1994; attendance at meetings of the Planning Board, Conservation Commission, Board of Health and regular communication with Building Inspectors, 1995-present.
Public information	Brochures describing Act and/or regulations, 1992, 1994, 1996, 1999, 2001, 2002

Public Outreach and Participation

Following passage of the law, as well as before, during and after adoption of the regulations, MDC/DWM embarked on an extensive effort to alert the public about the provisions and extent of the Act. This was also an opportunity for the Division to solicit public input regarding the regulations and their implementation. Some of this outreach was required by provisions of WsPA and the Massachusetts Administrative Procedure Act, while additional public participation was necessary to better communicate with the affected communities and facilitate compliance with the Act. See Table 1 for specifics of the outreach program.

Resource Development

Implementation of the WsPA required the addition of new staff with expertise in land use planning and Geographic Information Systems. The team of new and existing MDC/DWM staff were able, in a short time frame, to adopt regulations, devise administrative procedures and policies, and initiate the start-up of the regulatory process. Consultation with other state agencies, such as the Massachusetts Water Resources Authority and the Department of Environmental Protection, was part of the initial implementation of the WsPA and continues to be an important aspect of the Act's administration. An inter-disciplinary team continues to meet regularly to review and refine the WsPA implementation.

5. Watershed Protection Act Administration

The WsPA provides a variety of scenarios for individual property owners to determine whether their parcel is affected by the Act, and if so, whether a proposed activity is either allowed or prohibited by the regulations. As stated in Section 4, 7,300 property owners affected by the Act in 1992 received written notification of their status when the law took effect. Ownership, however, changes over time; current property owners can check the location of their parcel relative to the WsPA Protection Zones on maps available at town halls and MDC/DWM Field Offices.

Table 2: WsPA Application Types

Application Type (What to Submit)	MDC Response (Form of Response)
Advisory Ruling (Letter from Owner)	Informal indication of whether property is affected, if activity is prohibited, if exemption applies. (Letter from MDC)
Determination of Applicability (WsPA Form 1)	Formal, recordable indication of whether property is affected, if activity is prohibited, if exemption applies (may include water quality finding). (WsPA Form 2)
Variance (WsPA Form 3)	Decision whether physical characteristics allow law to be varied for this project without water quality degradation or harm to public good. (WsPA Form 4)
Exemption of a Tributary (WsPA Form 5)	Decision whether several factors allow tributary or portion can be exempted without risk to water quality degradation. (WsPA Form 4).

**Figure 3:** A Case Example of Good Development

The Watershed Protection Act does not stop development, rather it promotes land uses that better protect water quality. MDC/DWM staff work with landowners to ensure that their projects meet the WsPA regulations.

For example, a plan to build a multi-unit housing community was significantly modified to meet the requirements of the Act. The initial design placed 1/3 of the proposed units within 200' of a tributary, which was not allowed by the WsPA. The MDC required that all of the development be moved out of the Primary Protection Zone, leaving this critical buffer intact. The original number of units were still built, but in a manner that helps ensure a high quality water supply.

In another case, an existing commercial business proposed to expand both their building and paved areas. Much of this

work - including creating impervious surface and making "alterations" in the Primary Zone - was not exempt from the Act. A Variance application was eventually submitted with a development plan much different than the original design. The project received MDC/DWM approval because the revised project would actually improve water quality by providing significant site restoration to the existing degraded nature of the lot, installing Best Management Practices (BMPs) to remediate drainage problems, and creating a much smaller (and better sited) parking area than the first proposal.

These situations demonstrate how the WsPA maintains the integrity of the environment while providing residential and commercial opportunities in the affected communities.

Owners are recommended to make an inquiry to the MDC/DWM if there is a proposed change on the site regarding the use, physical structures, new construction, or any other activity modification. The kind of application submitted will depend on the circumstances of the applicant and the proposed project, (see Table 2: WsPA Applications at a

Glance). For more information on the Watershed Protection Act, visit the MDC website at www.state.ma.us/wspa.html. For questions regarding a particular parcel, please contact the staff at the appropriate DWM field office: Quabbin Reservoir and Ware River watersheds – (413) 323-6921 x501; Wachusett Reservoir watershed – (508) 792-7423 x314 or 319.

Table 3: Watershed Protection Act - Facts & Figures

Watershed	Number of Affected Parcels	Acreage Affected by WsPA				WsPA Application Types, 1997-2000	
		Primary Protection Zone	Secondary Protection Zone	Total	Percent of Watershed	Advisories: 392 (57%)	Determinations: 268 (39%)
Quabbin	1,260	3,628	4,008	7,636	8.0%		Variances: 25 (4%)
Ware	2,221	3,548	4,265	7,813	12.7%		
Wachusett	4,903	5,725	6,580	12,305	17.4%		
Total	8,384	12,901	14,853	27,754	12.2%		
						Total: 638	

For More information (Reference Number FS02.07)Contact:

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